

Remarks

Claims 5 and 6 are canceled. Claims 1-4, and 7-21 remain in the application. Claims 12-17 and 21 are allowed.

Objections/Rejections Under 35 U.S.C. 112

1.00 *The Examiner has rejected claims 1, 12 and 21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.*

1.10 The Examiner holds claim 1 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim. In claim 3, the Examiner does not understand how interior vessel sidewall section is separated from the outer vessel and extends therefrom. Claim 12 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claim 21 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim.

1.20 Applicant's agent has amended claims 1-3, 12-14 and 21 to consistently recite "the inner, linear vessel" which has antecedent basis in each of claims 1-3, 12-14 and 21. Applicant's agent has amended claim 3 to include the limitation of the linear interior vessel sidewall section extending essentially diagonally "within the outer drinking vessel." Applicant's agent respectfully requests that the Examiner withdraw the rejection of claims 1, 3, 12 and 21 under 35 U.S.C. 112, second paragraph, in view of the amendments to these claims.

***Objections/Rejections
Under 35 U.S.C. 102***

2.00 *The Examiner has rejected claims 1-4, 7-10, 18 and 19 under 35 U.S.C. 102(b) as being anticipated by Ward (US Patent No. 2,026,449, December 31, 1935).*

2.10 With respect to Claim 1, *Ward '449* shows: A two-compartment drinking vessel for consuming separate liquids comprising, a outer drinking vessel (1) having a closed bottom section (13), a generally vertical sidewall section (3) intersecting the outer vessel (1) bottom section (13), the sidewall section with an upper rim (7) there around, the outer vessel having an open top; and

An inner, closed bottom, linear vessel (2) with a sidewall section (4) having an upper rim (11) there around, the inner vessel (2) having an open top, the linear interior vessel (2) sidewall (4) section extending essentially diagonally (fig. 4) from adjacent a selected point on the outer vessel upper rim to a selected point adjacent the intersecting sidewall and bottom sections (13) of the outer vessel (1);

Whereby liquids poured into the outer vessel and inner vessel are separately contained until the two-compartment vessel is tilted to elevate the vessel bottom relative to the selected point on the outer vessel upper rim adjacent the inner vessel sidewall section, the liquid contained by the inner vessel flowing therefrom prior to the liquid contained in the outer vessel flowing therefrom (col. 1 ln. 15-20).

With respect to claim 2, *Ward '449* shows the linear interior vessel (2) sidewall section (10) contacts the selected point (5) on the outer vessel upper rim (7) and extends essentially diagonally therefrom (fig. 4). Examiner notes for selected point could be any point chosen, for this case examiner chose point (5).

With respect to claim 3, to the extent the claim can be understood *Ward '449* shows the linear interior vessel (2) sidewall section (4) is separated from the selected point. examiner defines selected point 180 degrees around the rim from point (5), on the outer vessel upper rim (7) and if one would draw an imaginary line to connect the defined points they extend essentially diagonally therefrom. Also *Ward '449* discloses "that these wall portions (3) or grooves (16) may be reversely inclined with respect to wall surface (10) so as to further retard the flow of liquid from the outer

container with respect to the accelerated flow of fluid from the inner container if desired," (page 2 ln. 4-10).

With respect to claim 4, *Ward '449* shows a supporting wall (16) between the inner vessel sidewall (4) section and the outer vessel sidewall (3) section.

With respect to claim 7, *Ward '449* shows the inner linear vessel (2) is cylindrical (fig.1).

With respect to claim 8, *Ward '449* discloses the inner linear vessel (2) is conical with an internal diameter decreasing with increasing distance from the open top thereof (col 2 ln 33-36).

With respect to claim 9,10,18 and19, *Ward '449* shows the outer vessel (1) and the inner vessel (2) are fabricated from a transparent material being glass as stated in *Ward '449* title.

2.20 Applicant's agent has amended claim 1 to include the limitations of claim 5, and canceled claims 5 and 6. Applicant's agent holds that the incorporation of the limitations of claim 5 into claim 1 renders claim 1, as amended, patentable over the *Ward '449* reference. Applicant's agent respectfully requests that the Examiner withdraw the rejection of claim1 under 35 U.S.C. 102, in view of the amendment to claim 1.

As to claims 2-4 and 7-10, applicant's agent holds that the incorporation of the limitations of claim 5 into claim 1 renders claim 1, as amended, patentable over the *Ward '449* reference. Applicant's agent holds that since claims 2-4 and 7-10 depend from claim 1, which is patentable, thus claims 2-4 and 7-10 are patentable since each recites more specific embodiments of the invention. Applicant respectfully requests that the Examiner withdraw the rejection of claims 2-4 and 7-10 under 35 U.S.C. 102, in view of the amendments to claim 1.

As to claims 18 and 19, applicant's agent has corrected a typographical error and amended claim 18 to depend from claim 12, which is patentable and allowed. Thus claim 18 is patentable since claim 18 recites more specific embodiments of the invention. Claim 19 depends from claim 18 and, therefore, claim 19 is patentable for the reasons stated above. Applicant respectfully requests that the Examiner withdraw the rejection of claims 18 and 19 under 35 U.S.C. 102, in view of the amendments to claim 18.

***Objections/Rejections
Under 35 U.S.C. 103***

3.00 *The Examiner has rejected claims 9-11 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Ward '449 (US Patent No. 2,026,449, December 31, 1935).*

3.10 The Examiner holds that *Ward '449* discloses the invention substantially as claimed. However *Ward '449* does not disclose transparent material, glass or Polymeric Resin. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a transparent material, glass or Polymeric Resin, in order to lower cost, manufacture quicker and easier.

3.20 Applicant's agent has amended claim 1 to include the limitations of claim 5, and canceled claims 5 and 6. As to claims 9-11, applicant's agent holds that the incorporation of the limitations of claim 5 into claim 1 renders claim 1, as amended, patentable over the *Ward '449* reference. Applicant's agent holds that since claims 9-11 depend from claim 1, which is patentable, thus claims 9-11 are patentable since each recites more specific embodiments of the invention. Applicant respectfully requests that the Examiner withdraw the rejection of claims 9-11 under 35 U.S.C. 103(a), in view of the amendments to claim 1.

As to claims 18-20, applicant's agent has corrected a typographical error and amended claim 18 to depend from claim 12, which is patentable and allowed. Thus claim 18 is patentable since claim 18 recites more specific embodiments of the invention. Claims 19 and 20 depend from claim 18 and, therefore, claims 19 and 20 are patentable for the reasons stated above. Applicant respectfully requests that the Examiner withdraw the rejection of claims 18-20 under 35 U.S.C. 103(a), in view of the amendments to claim 18.

4.00 The prior art made of record and not relied upon, McBride, U.S. Patent No. 2,162,629; Teetor, U.S. Patent No. 2,327,077; Teetor, U.S. Patent No. 2,327,078; Freel, U.S. Patent No. 2,656,837; Mari, U.S. Patent No. 3,729,114, and Jaarsma, U.S. Patent No. 4,277,000 have been reviewed by applicant's agent. These references are not believed to be more pertinent than the references cited by the Examiner.

CONCLUSION

Applicant respectfully traverses the Examiner's rejections and requests reconsideration. Applicant respectfully submits that pending claims 1-4 and 7-21, as amended, are in condition for allowance. Passage of the application to issue is respectfully requested.

Respectfully submitted,

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